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C O N F I D E N T I A L KHARTOUM 000982

C O R R E C T E D C O P Y -- TEXT

SIPDIS

DEPARTMENT FOR AF A/S FRAZER, AF/SPG, SE WILLIAMSON, NSC  
FOR BPITTMAN AND HUDSON

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TAGS: [ASEC](#) [PGOV](#) [PREL](#) [UN](#) [AU](#) [SU](#)

SUBJECT: APOCALYPSE SOON: SUDANESE PONDER POSSIBLE NEW ICC  
INDICTMENTS

REF: A. KHARTOUM 941

[1](#)B. KHARTOUM 338

[1](#)C. KHARTOUM 118

[1](#)D. KHARTOUM 90

Classified By: CDA Alberto M. Fernandez, reasons 1.4 (b) and (d).

[1](#)1. (C) Summary: NCP officials are quietly warning the international community that cooperation on a variety of priority issues, from UNAMID implementation to CPA follow through and Sudan's slow move to democracy could be jeopardized by "politically motivated" indictments of the ICC of Sudanese officials, especially President Al-Bashir. Whether bluff or promise, speculation on what the ICC will do next has caught the attention of both the NCP and of the political opposition in Sudan. End summary.

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SLOW TRAIN COMING  
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[1](#)2. (C) A week after holding an initial, abrupt meeting (reftel a) to discuss the possibility of new International Criminal Court (ICC) indictments against senior Sudanese officials, the National Congress Party (NCP) inner circle of President Al-Bashir is in crisis mode, according to multiple sources. After receiving some tough talk from European leaders, especially FM Kouchner, on the ICC the NCP inner circle, including President Al-Bashir, VP Taha, Mustafa Othman Ismail, Nafie Ali Nafie, Ali Karti, and others met, discussed and reportedly rejected the idea of cooperating with the court. But there have been other meetings and senior NCP officials plus NISS chief Salah Ghosh (Sudan's intel chief is not a party member but is a possible indictee) have been reaching out especially to European diplomats (seeing the EU as a mainstay of the ICC) warning them that an ICC indictment of more Sudanese officials, especially President Al-Bashir, could radically change the relationship of Sudan with some European countries and with the United Nations (assuming the Security Council supports the ICC).

[1](#)3. (C) UK Ambassador Marsden caught up with Presidential Advisor Ghazi Salahudin, who was rushing off to another NCP strategy session, who warned that "all the things you care about - Darfur, CPA - could slow or grind to a halt" if the survival of the regime is threatened by indictments targeting the President. Presidential Advisor Nafie Ali Nafie passed the same message to several other European diplomats while NISS Chief Ghosh painted an even more apocalyptic message to EU Special Envoy Brylle (septel), rejecting the idea that the court is independent of political influence. In Juba on the margins of the AEC plenary on July 3, First Vice President Salva Kiir told CDA Fernandez that "while they are all

certainly criminals in the NCP," he is less sanguine than other SPLM leaders gleeful at the thought of Al-Bashir and company accused of war crimes. "It could be dangerous when they feel cornered and their first and second instinct is always violence, they are slowing things down (on CPA implementation) until they see what actually happens."

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CLEARING THE DECKS FOR CONFRONTATION OR COOPERATION  
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14. (C) Indeed some observers wonder if the current "go slow" on the Abyei Road Map (the SAF 31st Brigade should begin to pull out of Abyei town any day now), heightened scrutiny of INGOs in Darfur, and some military movements in Darfur and along the North-South border could all be precautionary measures to keep the regime's options open in case there is an ICC-related crisis in the next few weeks. NGO staff told CDA at the Embassy's July 4 reception that HAC and NISS have substantially ratcheted up their oversight and pressure over the past few weeks of NGO movements, accounts and personnel "reviewing everything" pending some unknown future decision. Some note a difference depending on who is indicted: opposition leader Mubarak al-Fadel told Charge on July 2 that the indictment of senior officials like Ghosh or Nafie (it is unlikely that Nafie would be indicted on Darfur since he was marginalized inside the regime during the worst years of the violence in 2003-2005) would probably be weathered but naming President Al-Bashir "creates an immediate existential crisis" for the regime. He expected the NCP's response to be escalation, perhaps even declaring a formal state of emergency and freezing cooperation with the UN (which would really impact already snail-like UNAMID deployment), coupled with the low-key offer of some sort of face-saving deal. European ambassadors have told CDA that they expect that some INDICTMENTS

of them would be expelled depending on the enthusiasm that European capitals show in embracing an ICC indictment of Al-Bashir.

15. (C) Most Sudanese politicians believe that an ICC indictment of Sudan's sitting President would weaken the regime and make it even more fragile than it already is - a prospect welcomed by the political opposition including many in the NCP's junior partner, the SPLM, in the Government of National Unity. UN SRSF Ashraf Qazi worried on July 2 however that the SPLM has not actually worked out what it would do in such a case - "they are part of the government, and it is easy to call for ICC cooperation (the SPLM's official position) when the indicted are one minister and one militia leader, it will be harder to hide if it is your president." Certainly European officials in Khartoum are feeling the heat, "our orders are to tell the NCP to cooperate with the ICC, but we feel that we and everything we need to do in Sudan are actually hostages to the whims of one man (ICC Prosecutor Luis Moreno-Ocampo)," remarked one European ambassador.

16. (C) Comment: As Embassy has frequently noted (reftel b), the NCP are "brutal pragmatists" ready to cynically wheel and deal on many issues as long as their core concerns - remaining in power in Khartoum and not going to prison - are left untouched. An ICC indictment of the President of Sudan changes this dynamic and takes us into uncharted waters. Certainly the regime is fully capable of waging an orchestrated campaign of defiance (as was true with the controversy on a UN force for Darfur in 2006-2007) which could significantly raise political tensions in the world's second most unstable country. This is not a forgone conclusion - the regime's response to the bold JEM attack on Omdurman of May 10 has been measured -- a combination of increased internal repression and a repeated willingness to engage internationally. But an ICC challenge would seem to demand at the very least some tough symbolic action by the regime, perhaps against UNAMID and some foreign missions. CDA will be holding an Emergency Action Committee (EAC) on July 5 to discuss potential implications for Embassy security of

this issue. End comment.  
FERNANDEZ